

## **Exhibit 5**

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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THOMAS HARTMAN,

PLAINTIFF,

Docket No.:  
04CV1784 (ILG) (CLP)

-against-

THE COUNTY OF NASSAU, NASSAU COUNTY POLICE  
DEPARTMENT, POLICE OFFICER KARL N. SNELDERS,  
POLICE OFFICER MICHAEL KNATZ, DEPUTY INSPECTOR  
ROBERT TURK, LIEUTENANT THOMAS ZAMOJCIN,  
POLICE OFFICER "JOHN" SMITH, POLICE OFFICER  
"JOHN" BRADY, DETECTIVE BARRY O. FRANKLIN,  
POLICE OFFICER THOMAS O. McCAFFREY and "JOHN  
and JANE DOES 1-15" representing as yet Unknown  
and Unidentified Police Officers,

DEFENDANTS.  
-----X

DATE: September 1, 2005

TIME: 9:45 a.m.

EXAMINATION BEFORE TRIAL of a

Non-Party Witness, JAMIE FLORIO, taken by the  
Respective Parties, pursuant to a Subpoena, held  
at the offices of DANIEL J. HANSEN, ESQ.,  
233 Broadway, New York, New York 10007, before  
FRANCINE DELFINO, a Notary Public of the State  
of New York.

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A P P E A R A N C E S:

DANIEL J. HANSEN, ESQ.  
Attorney for the Plaintiff  
233 Broadway  
New York, New York 10007

NASSAU COUNTY  
OFFICE OF THE COUNTY ATTORNEY  
Attorneys for the Defendants  
One West Street  
Mineola, New York 11501  
BY: BETHANY O'NEILL, ESQ.  
and  
BY: JOSEPH ANCI, ESQ.

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F E D E R A L        S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED  
by and between the counsel for the respective  
parties hereto, that the filing, sealing, and  
certification of the within deposition shall  
be and the same are hereby waived;

IT IS FURTHER STIPULATED AND AGREED  
that all objections, except as to the form  
of the question, shall be reserved to the times  
of the trial.

IT IS FURTHER STIPULATED AND AGREED  
that the within deposition may be signed before  
any Notary Public with the same force and effect  
as if signed and sworn to before this court.

\*        \*        \*        \*

1

2 J A M I E F L O R I O, called as a witness,  
3 having been first duly sworn by a Notary Public of  
4 the State of New York, was examined and testified  
5 as follows:

6 EXAMINATION BY

7 MR. HANSEN:

8 Q. Please state your name for the record.

9 A. Jamie Florio.

10 Q. Where do you reside?

11 A. 445 Allen Avenue, Oceanside, New York  
12 11572.

13 Q. Miss Florio, my name is Daniel Hansen.  
14 I represent Mr. Thomas Hartman in connection with  
15 an incident that occurred back in March of 2004 at  
16 or near your home on Allen Avenue.

17 I will ask you some questions about  
18 what you may have seen on that day and your  
19 knowledge about the area where you live and the  
20 incident that occurred that involved Mr. Hartman  
21 and some Nassau County police officers.

22 I will ask that you keep all of your  
23 responses verbal because the Court Reporter that's  
24 sitting next to us can't take down head nods or  
25 shrugs or things like uh-hu or uh-hu. Okay?



1 J. FLORIO

2 A. Yes.

3 Q. You were served a subpoena to be here  
4 today?

5 A. Yes.

6 Q. Is that why you're here?

7 A. Yes.

8 Q. Let's talk about March of 2004 for a  
9 minute. Where were you living then?

10 A. At that address.

11 Q. At 445 Allen Avenue?

12 A. Yes.

13 Q. Who do you live there with?

14 A. My parents and brother.

15 Q. What are your parents' names?

16 A. John Florio. That's my dad.

17 Q. And your mom?

18 A. Ginger or Virginia is her name.

19 Florio.

20 Q. And your brother?

21 A. John also.

22 Q. How old is your brother?

23 A. Twenty-four or twenty-five. I don't  
24 know.

25 Q. How old are you?

1 J. FLORIO

2 A. Twenty-two.

3 Q. What's your date of birth?

4 A. 5/15/83.

5 Q. And your Social Security number?

6 A. 115-74-8229.

7 Q. How long have you lived over there at

8 445?

9 A. Nineteen years.

10 Q. Is your brother still living there?

11 A. Yes.

12 Q. Did he live there in March of 2004?

13 A. Yes.

14 Q. Is he a police officer?

15 A. Yes.

16 Q. He works in the City?

17 A. Yes.

18 Q. What precinct?

19 A. The 101st.

20 Q. He works in Rockaway?

21 A. Yes.

22 Q. How long has John been a police

23 officer?

24 A. Probably like three years.

25 Q. What about your dad, was your dad a

1 J. FLORIO

2 police officer?

3 A. Yes, Garden City.

4 Q. How long has your dad been at  
5 Garden City; a long time?

6 A. Yes, probably like fifteen years.

7 Q. Where was your dad before he was with  
8 Garden City; was he with the City, with the County?

9 A. He worked at the jail. I'm not sure  
10 where.

11 Q. In the sheriff's office or the County  
12 jail?

13 A. I think it was the County jail.

14 Q. It wasn't Riker's or something like  
15 that?

16 A. No.

17 Q. Does your mom work?

18 A. She's a waitress.

19 Q. Let's talk about the incident that  
20 occurred at or near your house back in March of  
21 2004. At some point in time did you give a  
22 statement to a detective?

23 A. Yes.

24 Q. I will show you what's been marked  
25 Plaintiff's Exhibit 1 last week on August 24. Can



1 J. FLORIO

2 A. I guess.

3 Q. Did you sign this statement?

4 A. Yes.

5 Q. Tell me the process of giving this  
6 statement, how did that work? Did you write it  
7 out, did he write it out, did he ask you questions,  
8 did you tell him what you saw? How did that work  
9 out?

10 A. I just pretty much told him what I  
11 remembered.

12 Q. As you were speaking was he writing?

13 A. Yes.

14 Q. How many drafts of this statement did  
15 he write, one, more than one?

16 A. This one.

17 Q. Did you sign this statement?

18 A. Yes.

19 Q. I see a little star at the bottom of  
20 the statement. Is that your signature next to the  
21 star?

22 A. Yes.

23 Q. Before you signed it did you read it?

24 A. Yes.

25 Q. That has some writing underneath where

1 J. FLORIO

2 you signed. Do you know whose writing that is?

3 A. No.

4 Q. Do you have any memory or any knowledge  
5 of what happened on March 12, 2004 other than  
6 what's written in this statement?

7 A. No.

8 Q. Let me ask you about that. At that  
9 point in time were you at home?

10 A. Yes.

11 Q. What were you doing that the point in  
12 time; were you a student, were you working or  
13 something else?

14 A. Working and going to school.

15 Q. Where were you working?

16 A. I work at Nine West. It's a shoe  
17 store.

18 Q. Which one? Where is it located?

19 A. In Oceanside.

20 Q. You are still working there?

21 A. Yes.

22 Q. And you are a student?

23 A. Yes.

24 Q. Where are you a student?

25 A. Hofstra University.

1 J. FLORIO

2 Q. Let's talk about March 12, 2004 for a  
3 bit. You were home that night?

4 A. Yes.

5 Q. Where were you at or about 5:00 that  
6 night; were you in the house at 445, were you  
7 outside, were you walking your dog? What were you  
8 doing?

9 A. I was inside.

10 Q. Where inside your house were you?

11 A. In my room.

12 Q. In relation to the house, where is your  
13 room?

14 A. It's upstairs.

15 Q. Is it in the front of the --

16 A. The front of the house.

17 Q. At some point in time did you hear  
18 something?

19 A. Yes.

20 Q. What did you hear?

21 A. Like a car screeching. I don't really  
22 remember what else.

23 Q. Did you hear any voices?

24 A. Yes.

25 Q. What were they saying?

1 J. FLORIO

2 A. I have no idea. I don't remember.

3 Q. Did you hear anybody identifying  
4 themselves as police officers?

5 A. No.

6 Q. Did you hear any threats being made?

7 A. I don't remember.

8 Q. Did you hear anyone making any  
9 reference to any gun or being shot or shoot?

10 A. No, I don't remember.

11 Q. When you heard these sounds where were  
12 you within your room?

13 A. Well, at that point I went to the  
14 window toward the front of the house.

15 Q. What did you see?

16 A. I don't know. I don't really remember  
17 a lot. Just cars kind of --

18 Q. Let's go a little at a time. Did you  
19 see a dark colored Lexus SUV?

20 A. Yes.

21 Q. I will show you some pictures. Would  
22 that help you if I had some pictures for you?

23 A. Yes.

24 Q. I will show you what's been marked as  
25 Plaintiff's Exhibit 21 back on May 18, 2005. Do



1 J. FLORIO

2 you recognize the scene that's shown in that  
3 photograph?

4 A. Yes.

5 Q. What is that? What location is that?

6 A. That's my house right there.

7 Q. Which is your house?

8 A. Right here (indicating).

9 Q. I will ask you to take this pen and put  
10 an F for Florio on your house and with your  
11 initials next to it.

12 A. (Complying.)

13 Q. Why don't you try it again.

14 A. (Complying.)

15 Q. So your house is the house with the  
16 gray roof on the right side of that photograph?

17 A. Yes.

18 Q. The window that's shown within that  
19 photograph on the second floor, is that your room?

20 A. Yes.

21 Q. How many rooms are there upstairs?

22 A. Two.

23 Q. Your room is the one in the front,  
24 where is the second room?

25 A. It's like on the other side, it would



1 J. FLORIO

2 be over here (indicating).

3 Q. To the right of the photo?

4 A. Yes.

5 Q. Is that what you mean?

6 A. Yes.

7 Q. Did you see the Lexus SUV in the photo?

8 A. Yes.

9 Q. Is that the position it was in when you  
10 looked out your window?

11 A. I think so.

12 Q. I will show you a whole bunch of  
13 pictures and I will ask that you take a look and  
14 tell me which of these photos best depict the scene  
15 that you saw that night.

16 A. (Complying).

17 Q. Just pick out the one or two or three  
18 that best depict the scene, from what you could see  
19 that night.

20 A. (Complying.)

21 Q. This one here?

22 A. I guess, that's more of the angle I saw  
23 it from, but not exactly.

24 Q. So what you picked out is Plaintiff's  
25 Exhibit 17, that was marked back on May 18. Is

1 J. FLORIO

2 that right?

3 A. Yes.

4 Q. Did you see the Lexus SUV that evening?

5 A. Yes.

6 Q. Was it in the same position where it's  
7 shown in this photograph?

8 A. I'm not sure.

9 Q. The vehicle, do you see the vehicle  
10 that's up on the grass?

11 A. Yes.

12 Q. When you first looked out your window,  
13 where was that car?

14 A. I don't remember.

15 Q. Was it in the street or on the lawn,  
16 the grass?

17 A. In the street.

18 Q. Was it moving?

19 A. When I first saw it they were both  
20 still driving.

21 Q. You saw them both pull up?

22 A. Yes.

23 Q. Did you see the driver of the SUV?

24 A. I don't remember.

25 Q. Did you see somebody get out of the

1 J. FLORIO

2 SUV?

3 A. I don't really remember.

4 Q. Did you see anybody get out of the car  
5 that's now up on the lawn?

6 A. I remember they were both out. I don't  
7 remember seeing them really get out or -- I can't  
8 really picture it.

9 Q. When they were both out, could you  
10 describe what each of the people were wearing?

11 A. I don't remember.

12 Q. Was it two or more than two people that  
13 were out?

14 A. I think it was two. I'm not really  
15 sure.

16 Q. Were they running?

17 A. I don't know.

18 Q. Do you know if there was a chase, if  
19 one person was chasing the other?

20 A. I couldn't really tell. I couldn't  
21 tell who was who at the time really.

22 Q. What were these people doing when you  
23 saw them? You can look at your statement, if you  
24 want.

25 A. I don't remember. It's pretty much --

1 J. FLORIO

2 I just remember people running around the cars.

3 Q. Did you see any threats being made?

4 MS. O'NEILL: Note my objection to  
5 form.

6 Q. Did you hear or see anybody threatening  
7 anybody?

8 A. I don't remember.

9 Q. In your statement did you write about  
10 any threats being made by anybody, by any police or  
11 anybody else that was involved?

12 A. No.

13 Q. Did Detective DiMartinez or the other  
14 detective that was with him ask you if you heard or  
15 saw any threats being made?

16 A. Yes, they asked, but I didn't remember.

17 Q. This statement was given less than a  
18 week after the incident? The incident was March  
19 21, the incident was dated March 21, so six days?

20 A. Yes.

21 Q. So you were asked specifically by the  
22 detective if you saw or heard any threats being  
23 made?

24 A. I don't know if that's what they asked.

25 Q. In general, is that what they asked



1 J. FLORIO

2 you?

3 A. I don't think so.

4 Q. What did they ask you?

5 A. I don't know. I don't know if they  
6 really asked me anything.

7 Q. Did they ask you anything at all?

8 A. I don't really remember. It's over a  
9 year ago.

10 Q. Everything that you remembered, though,  
11 back on the 21st, is that what you told them,  
12 everything that you remembered about that incident?

13 A. Yes.

14 Q. Did you leave anything out?

15 A. No.

16 Q. Was there anything blocking your view  
17 of what was happening in the street?

18 A. Not really, no.

19 Q. Were you ever asked to give any  
20 testimony at any courts or any proceedings other  
21 than today's deposition?

22 A. No.

23 Q. Did you ever speak to Detective  
24 DiMartinez after you gave him the statement or  
25 after you signed the statement?



1 J. FLORIO

2 A. No.

3 Q. Let's talk about your statement for a  
4 bit. Did you see the man get hit by the car?

5 A. Yes.

6 Q. Where was he when he got hit?

7 A. On the lawn.

8 Q. What was he doing when he got hit?

9 A. I don't remember.

10 Q. Was he walking, running, something  
11 else?

12 A. I don't remember.

13 Q. Do you know how he got up on the lawn?

14 A. No.

15 Q. Did you see a police officer or car  
16 chase him to the lawn?

17 A. I don't remember.

18 Q. When you first looked out your window  
19 and you saw the men where were they; were they in  
20 the street?

21 A. When I first saw them driving and then  
22 at some point got out of the car. I don't  
23 really -- I can't really picture it all.

24 Q. Did you see any running around when  
25 they were in the street?

1 J. FLORIO

2 A. I saw them running around, yes.

3 Q. Did you actually see the man get hit by  
4 the car?

5 A. Yes.

6 Q. What happened when he got hit by the  
7 car? Did he go down?

8 A. Yes.

9 Q. Did you see the car go over him?

10 A. I think the front tire and then at that  
11 point I had gone downstairs, once I saw him get  
12 hit.

13 Q. Was he facing toward the car or away  
14 from the car when he got hit?

15 A. I don't remember.

16 Q. About how fast was the car going when  
17 it hit him?

18 A. Not fast. I'm not really sure. It  
19 wasn't speeding over him, it just kind of like  
20 bumped him.

21 Q. Do you know what part of his body it  
22 went over?

23 A. His leg.

24 Q. Did he say anything when it went over  
25 his leg?

1 J. FLORIO

2 A. I don't remember.

3 Q. The other man that you saw outside the  
4 car, where was he when this person was hit?

5 A. I don't really know.

6 Q. At the time the man was hit was he  
7 moving?

8 A. I don't remember.

9 Q. Was he just standing still when he got  
10 hit by the car?

11 A. I don't know.

12 Q. Do you know what he was wearing?

13 A. It says in here, I guess he was wearing  
14 a blue sweatshirt. I can't picture it.

15 Q. Let's talk about your statement. Can  
16 you look at it.

17 A. (Complying.)

18 Q. What was written for you and what you  
19 signed, in the middle of the statement, you see  
20 where it says, "the blue sweatshirt man then went  
21 back to the front of the Lexus." Do you see that?

22 A. Yes.

23 Q. And then you see it says, "I then see  
24 the police car start moving." Do you see that?

25 A. Yes.

1 J. FLORIO

2 Q. Is that what you saw that night?

3 A. I don't remember.

4 Q. And then it says -- there's an "I"  
5 that's crossed out and then it says, "the police  
6 car moved in the direction of the front of the  
7 Lexus." Do you see that?

8 A. Yes.

9 Q. So you saw the police car move from  
10 the --

11 A. I think it went around.

12 Q. Went around the front of the Lexus.

13 A. I don't remember. At this time it to  
14 went around that way.

15 Q. Was he running away, from what you  
16 could tell?

17 A. I don't remember. It didn't seem  
18 like --

19 Q. "I saw the police car strike the guy in  
20 the blue sweatshirt in the legs." Do you see that?

21 A. Yes.

22 Q. Is that what you saw?

23 A. Yes.

24 Q. The man in the blue sweatshirt, did he  
25 go right down when he was struck?



1 J. FLORIO

2 A. Yes.

3 Q. Did that bump take place in the area  
4 where the X was or could it have happened somewhere  
5 else?

6 A. It was on the grass. I remember that.  
7 Just on the grass. I don't think it was in the  
8 street.

9 Q. What makes you think it was on the  
10 grass?

11 A. That's what I remember seeing.

12 Q. Was it closer to the grass to the right  
13 of the X where the curb line is?

14 A. I don't remember.

15 Q. Do you remember at all the where on the  
16 grass the first impact took place?

17 A. No.

18 Q. The statement indicates, "I could see  
19 the guy in the blue sweatshirt still yelling, arms  
20 waving and pointing at the gray sweatshirt." Do  
21 you recall seeing the man in the blue sweatshirt  
22 yelling?

23 A. I can't really remember now.

24 Q. Is that something that is contained  
25 within your statement to the police officer?